

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

FILED
U.S. DISTRICT COURT

JOCK WALKER,

2007 JUN 20 12:50

Plaintiff,

DISTRICT OF UTAH
BY: *V* DEPUTY CLERK

v.

NO: 2:06-EV-872

CONQUEST ENERGY, INC.,

PHILIP G. HAYDEN

and DAVID T. HOOPER,

Defendants.

AFFIDAVIT OF DAVID T. HOOPER

STATE OF TENNESSEE

COUNTY OF WILLIAMSON

I, DAVID T. HOOPER, having been first duly sworn, states:

- 1) I am David T. Hooper, a citizen and resident of Williamson County, Tennessee. The matters contained in this affidavit are of my personal knowledge.
- 2) I am unable to be present at the scheduled hearing on the pending Motion to Dismiss for lack of personal jurisdiction on July 2, 2007. I will be traveling with two of my sons on an out-of-state camping trip with their Boy Scout Troop from June 23 through the evening of Sunday, July 1. This camping trip has been scheduled for several months, and I have been committed to attend as a leader. I will not be returning to the Nashville area until the evening of Sunday, July 1.
- 3) As a result, I am unable to obtain a flight connection between Nashville and Salt Lake City that would permit me to be present for any oral argument on Monday, July 2 on the pending Motion to Dismiss.
- 4) In addition, the requirement of oral argument on the pending Motion to Dismiss for

lack of personal jurisdiction places two substantial burdens on me, even if the hearing date should be changed. First would be a substantial personal financial expense: in order to participate in oral argument in a court setting in Utah, it would be necessary for me to incur substantial air travel and hotel bills that would create a financial burden for me. And second, due to the distance to be traveled between Nashville and Salt Lake City, it would be necessary for me to lose two and possibly three days of work in order to be present for a relatively brief oral argument. As I am self-employed and do not have any associates working for me, that would create an additional financial burden.

5) Finally, I would respectfully submit that the salient matters involved in the pending Motion to Dismiss are fully contained in the Motion itself, the brief in support of that Motion and my prior affidavit. I do not anticipate the submission of any additional facts at oral argument that are not otherwise contained in those documents. As a result, I believe that the Court can make an appropriate ruling on the pending Motion without the necessity of oral argument.

6) Based on all of the forgoing factors, I respectfully ask that the pending Motion to Dismiss be addressed by the Court on the filings made to date without the necessity of oral argument.

David T. Hooper
David T. Hooper

Sworn to and subscribed before me this 19 day of June, 2007.

Dawn M. Solis
Notary Public

My Commission Expires: 6/20/09

